

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

| | | |
|--------------------------|---|----------------------------|
| MARK WOODWORTH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 5:14-CV-06090 REL |
| |) | |
| KENNETH HULSHOF, et al., |) | |
| |) | |
| Defendants. |) | |

DEFENDANT JOHN WILLIAMS' MOTION TO DISMISS

COMES NOW Defendant John Williams, pursuant to Federal Rule of Civil Procedure 12(b), for his motion to dismiss, or in the alternative under Rule 12(e) for a more definite statement, states as follows:

1. Plaintiff Mark Woodworth ("Plaintiff") has filed an eight-count complaint against 17 defendants. Defendant Williams is named in only one count, Count V, for conspiracy to violate Plaintiff's constitutional rights under Section 1983.

2. Plaintiff's Complaint against Williams must be dismissed because Plaintiff does not allege that Williams took any act under color of state law. In order for liability to be imposed under Section 1983, state action must be alleged.

3. Additionally, the allegations made by Plaintiff against Williams that pertain to his criminal convictions relate to his alleged "false testimony" at trial. Witness testimony is absolutely privileged and therefore cannot serve as the basis of liability.

4. In the alternative, Defendant is unable to determine what it is Plaintiff claims Defendant Williams did that caused his convictions and/or a violation of his civil rights, and therefore, moves for a more definite statement as to Defendant Williams.

5. In further support of his Motion, Defendant Williams submits Suggestions in

Support of his Motion to Dismiss, or in the Alternative, for a More Definite Statement.

WHEREFORE, Defendant John Williams prays for an order dismissing Plaintiff's Complaint against him and for such other and further relief as may be deemed just and necessary under the circumstances.

Respectfully submitted,

PLEBAN & PETRUSKA LAW, LLC

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of October 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all attorneys of record in the above-referenced case.

/s/ C. John Pleban